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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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KURT F. JOHNSON,

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Petitioner,

No. C 08-02462 JSW

11

v.

**ORDER REQUIRING RESPONSE
TO MOTION TO DISMISS**

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UNITED STATES OF AMERICA, et al.,

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Respondents.

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15 On December 17, 2009, Petitioner Kurt F. Johnson filed a Motion to Dismiss this action,
16 on the basis that the Court failed to comply with the requirements of *Castro v. United States*,
17 540 U.S. 375 (2003) before it construed his habeas petition in this case as a motion to vacate
18 sentence pursuant to 28 U.S.C. § 2255. The Court HEREBY ORDERS that the Respondents
19 shall file a response to the motion by no later than February 5, 2010. Mr. Johnson may file a
20 reply by no later than February 19, 2010. The Court shall then take the matter under
21 submission.

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IT IS SO ORDERED.

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Dated:January 21, 2010

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JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KURT F. JOHNSON,

Case Number: CV08-02462 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

USA et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 21, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kurt F. Johnson
#13177-081
Safford Federal Correctional Institution
P.O. Box 9000
Safford, AZ 85548

Dated: January 21, 2010

Jennifer Ottolini
Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk